IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 61 OF 2005

MR. ANAND GOVIND SHETYE ....Applicants

Versus

STATE OF GOA THROUGH ITS CHIEF SECRETARY AND 2 ORS., ...Respondents

Shri Ulhas G.Shetye,Advocate for the Applicant.

Shri T. George with Ms.K.M.Kataky, Advocates For R.2

Coram:- N. A. BRITTO, J.

Date:- 25th August, 2005

P.C.:

Heard Shri U.G. Shetye, the learned counsel on behalf of the Applicant.

The applicant is accused No.3 in C.C. No. 20/P/2002/C filed by the complainant/respondent No.2 under Sections 447, 379 and 420 r/w 34 I.P.C. Process against the applicant and two others namely respondent No.3 and her deceased husband was issued by the learned J.M.F.C. under the said sections, but subsequently the learned J.M.F.C. Vasco-da-Gama, by Order dated 30.6.04 recalled the said process against the applicant, as a result of which the complainant-respondent No.2 filed a revision petition before the learned Sessions Judge and the learned Sessions Judge by his Order dated 12.1.05 quashed the said Order of the learned J.M.F.C. on the ground that the learned J.M.F.C. did not have jurisdiction to recall the process once issued by him. However, the learned Sessions Judge chose not to examine whether issuing process against the applicant was justified or not. The main grievance of the applicant in this petition is that the learned J.M.F.C. was not at all justified on the materials placed before

him to issue process against the applicant under the said sections.

An order issuing process against an accused is revisable. The powers of revision can be concurrently exercised by this Court as well as by the Court of Sessions. If the applicant can avail the ordinary remedy of revision, this Court need not exercise its extraordinary jurisdiction under Section 482 of the Code. For other reasons set out in the decision of Dr. M. Bhave v. M/s Travel Force, dated 6th April, 2005 in Cr.M.A.52/05, this petition shall be returned to the applicant to be presented before the Sessions Court, Margao. In case the applicant presents this petition before the Sessions Court, Margao within a period of two weeks after the same is returned to him, the learned Sessions Judge shall treat the same as a revision petition against the order issuing process against the applicant by the learned J.M.F.C., Vasco-da-Gama and dispose of the same in accordance with law.

Petition allowed on the above terms, with no order as to costs.

N. A. BRITTO, J.